



The Comptroller General
of the United States

Washington, D.C. 20548

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Decision

Matter of: Karl Foarile - Labor Relations -
File: Objection to GAO Review
B-226283
Date: June 18, 1987

DIGEST

In accordance with 4 C.F.R. Part 22.7(b), GAO will not take jurisdiction of a union request for review of an employee's claim where the agency objects to GAO's consideration of the claim.

DECISION

Mr. Louis Baldasty, American Federation of Government Employees (AFGE) Local Representative for Local 3369, Social Security Administration, has requested our decision, regarding whether the Department of Health & Human Services, Social Security Administration, complied with applicable laws and regulation in its collection of a debt owed to it by an employee, Mr. Karl Foarile. The Department of Health & Human Services objects to our consideration of this matter which is the subject of an ongoing grievance proceeding. We decline to assert jurisdiction in view of the agency's objections.

According to the case record, when Mr. Foarile received his pay slip for the pay period ending March 15, 1986, he noticed that his pay had been adjusted by reducing it \$3.17. Upon investigating the matter, he learned that his agency had determined that he had been overpaid \$3.17 for the pay period ending December 21, 1985. Consequently, to liquidate this indebtedness, the agency had deducted the amount of the indebtedness from his March 1986 pay.

Mr. Foarile took exception to the agency's action and filed a grievance under the negotiated agreement between the AFGE and the Social Security Administration. The crux of his grievance apparently is that any debt collection by offset, as was done by the agency, requires that the employee first be given notice and an opportunity to contest the proposed agency action. Although this grievance is still pending, Mr. Foarile has authorized his union representative, Mr. Baldasty, to seek our decision on several questions regarding the debt collection practices of the agency which,

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if answered by us, would be dispositive of Mr. Foarile's still undecided grievance.

After receiving a copy of the union's request for our decision, an authorized official of the Department of Health & Human Services^{1/} has written to us regarding this matter. The official states that the dispute between Mr. Foarile and the agency presently is the subject matter of an ongoing grievance pursuant to a negotiated grievance procedure. He further states that the Department "objects to submission to the Comptroller General of the matter addressed in Mr. Baldasty's letter, since such a decision would be disruptive to the parties' relationship and is inconsistent with the negotiated agreement."

Our procedures found in Title 4, Code of Federal Regulations, Part 22, govern requests for Comptroller General decisions on appropriated fund expenditures which are of mutual concern to agencies and labor organizations. We issued those procedures in order to inform both labor and management in the Federal sector of our policies in light of the enactment of the Civil Service Reform Act of 1978, Public Law 95-454. They give labor organizations and Federal agencies equal access to GAO on any matter of mutual concern involving the expenditure of appropriated funds and extend the right to request an advisory opinion on such matters to arbitrators and other neutral parties. They also provide guidance as to when GAO will defer to procedures established pursuant to title 5, United States Code, Chapter 71, Labor-Management Relations.

Section 22.7(b) of Part 22 provides that the Comptroller General will issue a decision on a matter which is subject to a negotiated grievance procedure only upon the joint request of an agency and a labor organization. Thus, except in certain circumstances not pertinent here, we will not take jurisdiction of a claim where one of the parties to the agreement objects to our doing so. See e.g., Lawrence L. Longsdorf, 61 Comp. Gen. 513 (1982).

Accordingly, in view of the agency's objection, we will not assert jurisdiction over this matter.

for 
Comptroller General
of the United States

^{1/} Mr. Jerome Marullo, Acting Regional Personnel Officer, Region II.